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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2794 Session of  
2022

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INTRODUCED BY RYAN, YOUNG, CONKLIN, DELLOSO, GUENST, HENNESSEY,  
KINSEY, MADDEN, McNEILL, MOUL, SANCHEZ, STAATS, BURGOS,  
KENYATTA, PARKER, D. WILLIAMS, HOHENSTEIN, KINKEAD, CEPHAS,  
HELM, JONES AND BRIGGS, SEPTEMBER 1, 2022

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REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 1, 2022

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AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure) and 61  
2 (Prisons and Parole) of the Pennsylvania Consolidated  
3 Statutes, in matters affecting government units, further  
4 providing for exceptions to sovereign immunity, for  
5 limitations on damages and for exceptions to governmental  
6 immunity and providing for petition for compensation for  
7 wrongful conviction; in general administration, providing for  
8 services after wrongful conviction; and, in Pennsylvania  
9 Board of Probation and Parole, further providing for powers  
10 and duties of department.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. Section 8522(b) of Title 42 of the Pennsylvania  
14 Consolidated Statutes is amended by adding a paragraph to read:

15 § 8522. Exceptions to sovereign immunity.

16 \* \* \*

17 (b) Acts which may impose liability.--The following acts by  
18 a Commonwealth party may result in the imposition of liability  
19 on the Commonwealth and the defense of sovereign immunity shall  
20 not be raised to claims for damages caused by:

21 \* \* \*



1 a wrongfully convicted individual.

2 § 8582. (Reserved).

3 § 8583. Petition for compensation for wrongful conviction.

4 (a) General rule.--An action may be brought under this  
5 subchapter to recover damages for a wrongful conviction of an  
6 individual.

7 (b) Petition.--A petition to enforce the right of action  
8 created by this section may be brought by:

9 (1) The wrongfully convicted individual.

10 (2) If the wrongfully convicted individual is deceased,  
11 the heirs of the wrongfully convicted, whether or not  
12 residents of this Commonwealth or elsewhere, in accordance  
13 with the following:

14 (i) The damages recovered shall be distributed to  
15 the beneficiaries in the proportion they would take the  
16 personal estate of the decedent in the case of intestacy.

17 (ii) The damages may not be paid to creditors of the  
18 deceased person under the statutes of this Commonwealth.

19 (c) Burden of petitioner.--In an action under this section,  
20 the plaintiff has the burden of proving by a preponderance of  
21 the evidence:

22 (1) the petitioner was convicted of an offense;

23 (2) the petitioner was sentenced to incarceration, or to  
24 confinement in an institution under section 6403 (relating to  
25 court-ordered involuntary treatment), based on that  
26 conviction, and has served all or any part of that sentence;

27 (3) either:

28 (i) the charges against the petitioner were  
29 dismissed after the conviction was overturned, reversed  
30 or vacated on director collateral review on the basis of

1 innocence and the charges were not refiled; or

2 (ii) the petitioner was acquitted of the charges  
3 upon retrial; and

4 (4) the petitioner was not convicted of any lesser  
5 included felony arising from the same set of facts as the  
6 crime for which the petitioner was convicted.

7 (d) Burden of respondent.--In an action under this section,  
8 the respondent has the burden of proving by a preponderance of  
9 the evidence that the petitioner is not entitled to compensation  
10 under any of the following:

11 (1) The petitioner was an accomplice in the commission  
12 of the crime for which the petitioner was convicted.

13 (2) The petitioner committed perjury or fabricated  
14 evidence at the original trial. A confession or admission  
15 later found to be false or a guilty plea does not constitute  
16 perjury or fabrication of evidence for the purposes of this  
17 paragraph.

18 (e) Special damages.--In an action brought under this  
19 section, the plaintiff shall be entitled to recover the  
20 following:

21 (1) Statutory noneconomic damages, as adjusted by  
22 subsection (f), of \$100,000 for each year of imprisonment or  
23 involuntary treatment while awaiting a sentence of death.

24 (2) Statutory noneconomic damages, as adjusted by  
25 subsection (f), of \$75,000 for each year of imprisonment or  
26 involuntary treatment for any other sentence.

27 (3) Statutory noneconomic damages, as adjusted by  
28 subsection (f), of \$50,000 for each year spent on parole or  
29 probation.

30 (4) In calculation of any of the statutory noneconomic

1 damages, partial years shall receive prorated payment.

2 (5) Compensation to those entitled to child support  
3 payments owed by the petitioner that became due, and interest  
4 on child support arrearages that accrued, during the time  
5 that the petitioner served in prison but were not paid.

6 (6) Reasonable attorney fees and costs incurred in  
7 obtaining relief under this subchapter. The fees and costs  
8 under this paragraph may not be deducted from the  
9 petitioner's damages award. The petitioner's attorneys may  
10 collect any fees or costs in excess of the amounts awarded  
11 under this section.

12 (7) Reimbursement of any unreimbursed costs, fines, fees  
13 or surcharges imposed on the petitioner as a result of the  
14 conviction which were paid by or on behalf of the petitioner.

15 (8) Reimbursement of any unreimbursed restitution paid  
16 by the petitioner as a result of the conviction.

17 (9) Compensation for any reasonable reintegrative  
18 services and mental and physical health care costs incurred  
19 by the petitioner for the period between the petitioner's  
20 release from incarceration or involuntary treatment and the  
21 date of the petitioner's award.

22 (10) The petitioner shall be eligible for any separation  
23 services and programs available to any other person leaving  
24 incarceration.

25 (11) An order for limited access to the criminal record  
26 under 18 Pa.C.S. § 9122.2 (relating to clean slate limited  
27 access).

28 (f) Adjustment of statutory noneconomic damages.--Beginning  
29 in 2022, and every year thereafter, the State Court  
30 Administrator shall determine the percentage increase or

1 decrease in the cost of living for the previous calendar year,  
2 based on changes in the Consumer Price Index for All Urban  
3 Consumer, Mid-Atlantic Region (All), as published by the Bureau  
4 of Labor Statistics of the United States Department of Labor.  
5 The increases or decreases shall be made in accordance with the  
6 following:

7       (1) On or before July 1 of the year in which the State  
8 Court Administrator makes the determination required by this  
9 subsection, the State Court Administrator shall adjust the  
10 amounts prescribed under subsection (e) (1), (2) or (3) for  
11 the following calendar year by multiplying the amounts  
12 applicable to the calendar year in which the adjustment is  
13 made by the percentage amount determined under this  
14 subsection.

15       (2) The adjustment may not exceed 3% for any year.

16       (3) The State Court Administrator shall round the  
17 adjusted limitation amount to the nearest \$100. The unrounded  
18 amount shall be used to calculate the adjustments to the  
19 amounts in subsequent calendar years.

20       (4) The adjusted amounts become effective on July 1 of  
21 the year in which the adjustment is made, and apply to all  
22 claims filed under this section on or after July 1 of that  
23 year and before July 1 of the subsequent year.

24       (g) Payment of award.--An award of damages on a petition  
25 under this section shall be paid to the petitioner in a lump  
26 sum.

27       (h) Taxes.--Damages awarded on a petition under this section  
28 may not be subject to any Commonwealth taxes.

29       (i) Civil offset and reimbursement.--If the petitioner  
30 receives a monetary award against the Commonwealth or any

1 political subdivision thereof in a civil action for wrongful  
2 conviction or imprisonment for the crimes at issue in the  
3 petition, or has entered into a settlement agreement with the  
4 Commonwealth or any political subdivision thereof for wrongful  
5 conviction or imprisonment for the crimes at issue in the  
6 petition, the following shall apply:

7       (1) An award under this section will be reduced to the  
8 extent of any noneconomic damages received in the civil  
9 action award or settlement agreement, less any attorney fees,  
10 expenses and out-of-pocket costs paid by the petitioner in  
11 connection with obtaining the civil action award or  
12 settlement.

13       (2) If the petitioner has already received an award  
14 under this section, the petitioner shall reimburse the  
15 Commonwealth or local agency to the extent of any noneconomic  
16 damages received in the civil action award or settlement  
17 agreement, less any attorney fees, expenses and out-of-pocket  
18 costs paid by the petitioner in obtaining the civil action  
19 award or settlement up to the full amount awarded under the  
20 petition.

21       (3) Expenses incurred by the Commonwealth or any of its  
22 agencies or subdivisions, including expenses incurred to  
23 secure the petitioner's custody or involuntary treatment  
24 under section 6403 (relating to court-ordered involuntary  
25 treatment), or to feed, clothe or provide medical services  
26 for the petitioner while imprisoned and the value of any  
27 goods or services provided to the petitioner under 61 Pa.C.S.  
28 Ch. 11 Subch. E (relating to services after wrongful  
29 conviction) are not subject to reimbursement under this  
30 subsection.

1 (j) Statute of limitations.--A petition under this section  
2 must be filed within six years of the date of release from  
3 incarceration or involuntary treatment or the reversal of the  
4 conviction whichever is later.

5 Section 5. Chapter 11 of Title 61 is amended by adding a  
6 subchapter to read:

7 SUBCHAPTER E

8 SERVICES AFTER WRONGFUL CONVICTION

9 Sec.

10 1181. Scope of subchapter.

11 1182. (Reserved).

12 1183. Eligibility for services after wrongful imprisonment.

13 1184. Services.

14 1185. Regulations.

15 § 1181. Scope of subchapter.

16 This subchapter relates to the provision of notice of and the  
17 eligibility of individuals for services after release from  
18 wrongful imprisonment.

19 § 1182. (Reserved).

20 § 1183. Eligibility for services after wrongful imprisonment.

21 Individuals released from incarceration in a State  
22 correctional institution or from involuntary treatment under 42  
23 Pa.C.S. § 6403 (relating to court-ordered involuntary  
24 treatment), as a result of the reversal, overturning or vacation  
25 of a criminal conviction or pardon or commutation granted, and  
26 individuals who receive a pardon or whose convictions are  
27 reversed, overturned or vacated after the individual has been  
28 released from incarceration in a State correctional institution  
29 or from involuntary treatment under 42 Pa.C.S. § 6403, shall be  
30 entitled to and the Commonwealth shall provide each service

1 under section 1184 (relating to services).

2 § 1184. Services.

3 The Commonwealth shall provide the following services to  
4 eligible individuals under section 1183 (relating to  
5 eligibility for services after wrongful imprisonment):

6 (1) Services and programs at community corrections  
7 centers and group homes under 37 Pa. Code § 94.3 (relating to  
8 procedures for participation in prerelease programs).

9 (2) General assistance under 55 Pa. Code § 141.61  
10 (relating to policy).

11 (3) Medical assistance for categorically needy, under  
12 the following:

13 (i) 55 Pa. Code § 165.41 (relating to eligibility  
14 for special allowances for supportive services).

15 (ii) 55 Pa. Code § 165.42 (relating to advance  
16 provision of special allowances for supportive services).

17 (iii) 55 Pa. Code § 165.43 (relating to requests for  
18 special allowances for supportive services and time  
19 frames for eligibility determinations).

20 (iv) 55 Pa. Code § 165.44 (relating to verification  
21 for special allowances for supportive services).

22 (v) 55 Pa. Code § 165.45 (relating to time frames  
23 for authorization of special allowances for supportive  
24 services).

25 (vi) 55 Pa. Code § 165.46 (relating to types of  
26 special allowances for supportive services).

27 § 1185. Regulations.

28 (a) Department of Human Services.--Within 120 days of the  
29 effective date of this section, the Department of Human Services  
30 shall promulgate regulations to implement the provision of

1 benefits under this section. The regulations shall include:

2 (1) Creation of an application for benefits.

3 (2) Designation of a person or division to process  
4 application forms for benefits that are received by the  
5 Department of Human Services.

6 (3) Drafting of procedures and guidelines for making  
7 determinations on applications.

8 (4) Requiring determinations to be made within 14 days  
9 of receipt of an application.

10 (b) Department.--Within 120 days of the effective date of  
11 this section, the department shall promulgate regulations to  
12 ensure that the Department of Human Services receives  
13 identifying information for each individual who is released from  
14 incarceration or involuntary treatment based on dismissal or  
15 acquittal following overturning, vacation or reversal of the  
16 individual's conviction or on gubernatorial pardon or  
17 commutation and to ensure each individual is provided with:

18 (1) An application form for benefits under this section.

19 (2) An emergency stipend.

20 (c) Administrative Office of Pennsylvania Courts.--Within  
21 120 days of the effective date of this section, the  
22 Administrative Office of Pennsylvania Courts shall promulgate  
23 rules of judicial administration to ensure that the Department  
24 of Human Services receives identifying information for each  
25 individual who, after having been released from incarceration or  
26 involuntary treatment, is acquitted of the charges underlying  
27 the incarceration or involuntary treatment or has the charges  
28 dismissed after the underlying conviction has been overturned,  
29 vacated or reversed and to ensure that each individual is  
30 provided with all the following:

1           (1) An application form for benefits under this section.

2           (2) An emergency stipend.

3           (d) Board of Pardons.--Within 120 days of the effective date  
4 of this section, the Board of Pardons shall promulgate  
5 regulations to ensure the Department of Human Services receives  
6 identifying information for each individual who, after having  
7 been released from incarceration or involuntary treatment, is  
8 pardoned of the charges underlying the incarceration or  
9 involuntary treatment and to ensure that each individual is  
10 provided with:

11           (1) An application form for benefits under this section.

12           (2) An emergency stipend.

13           Section 6. Section 6171(a) of Title 61 is amended by adding  
14 a paragraph to read:

15 § 6171. Powers and duties of department.

16           (a) Powers and duties.--The department shall have the  
17 following powers and duties:

18           \* \* \*

19           (24) Assist the transition of a person who has been  
20 exonerated and ensure access to the services and programs  
21 provided to individuals paroled under section 6132 (relating  
22 to specific powers of board involving offenders).

23           \* \* \*

24           Section 7. This act shall take effect in 60 days.